HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.4866 OF 2001

Between:

Royyala Maraiah

. . .Petitioner

AND

Government of AP and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Smt. M.Vidyavathi

Counsel for the respondents : Assistant Government Pleader for Fisheries

Dated: 25th July, 2007

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This is a petition for quashing order dated 27.2.2001 vide which Assistant Director of Fisheries/Deputy Registrar of Cooperative Societies, Cuddapah (respondent No.3 herein) disqualified the petitioner from the primary membership of Sri Lakshmi Venkateswara Fishermen Cooperative Society (for short, 'the society').

The petitioner was elected as President of the society in 1998. After two years, respondent No.3 issued notice dated 20.12.2000 and called upon the petitioner to show cause as to why he may not be declared ineligible for the primary membership of the society. The notice was founded on the allegation that from the very inception, the society has not carried any activity and not functioned as per the audit report of the District Cooperative Societies Audit Officer for the years 1996-97 and 1997-98. The petitioner submitted reply stating therein that Directors' meeting is convened every three months and the General Body Meetings are convened once in a year; that no member has complained about the functioning of the society; that no auditor has conducted enquiry into the affairs of the society; that 18 members of the society are catching fish in the backwaters of Somasila Reservoir; that whosoever is benefited through the society is obtaining licence for Somasila Reservoir and eking his livelihood; that Shankar Narayan Tank, which is situated in the area of the society, has been taken on lease by paying Rs.330/-. Thereafter, respondent No.3 issued the impugned order and disqualified the petitioner from the primary membership of the society. The relevant portions of that order

are reproduced below:

> "In pursuance of the above instructions of Regional Deputy Director of Fisheries, Kurnool, this office issued a show cause notice vide reference 3rd under Section 21 (3)(1) of A.P.C.S. Act, 1964 to Sri R. Maraiah, President, Fishermen Co.operative Society, T. Sandrapally to show the reasons that why he should not be disqualified for the membership of T.Sandrapally Society. In response to the show cause notice, R. Maraiah, President, T. Sandrapally has submitted the reply to the undersigned vide reference 4th.
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> After keen perusal of the reply of Sri R. Maraiah, it is found that the reply is irrelevant and not convincing.
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> ORDER
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> After careful examination of the reply of Sri R. Maraiah, President, T. Sandrapally and also as per the instructions of Commissioner of Fisheries, Andhra Pradesh, Hyderabad and Regional Deputy Director of Fisheries, Kurnool vide reference 1st and 2nd above, Sri R. Maraiah, President, Fishermen Co.operative Society T. Sandrapally is hereby disqualified from the primary membership of Sri Lakshmi Venkateswara Fishermen Co.operative Society, T. Sandrapally under Section 21(3)(1) of A.P.C.S.Act, 1964."

The petitioner has questioned the impugned order by asserting that no enquiry was held by the auditor; that 18 members were admitted as Dwakra group and there is no violation of provisions of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the Act'); and that he has not incurred any disqualification within the meaning of Section 19 of the Act.

The respondents have not filed affidavit to controvert the averments contained in the writ petition. Therefore, the same will have to be decided by presuming that whatever has been stated in the petitioner's affidavit on the factual matrix of the case is correct.

I have heard learned counsel for the petitioner and the learned Government Pleader. In my opinion, the order under challenge is liable to be set aside for more than one reasons, which are

enumerated below:

1) Respondent No.3 has relied on report submitted by Joint Director of Fisheries (Enquiry Officer) of the Commissionerate of Fisheries, who is said to have visited the village on 9.8.2000, but copy thereof was not supplied to the petitioner and he was not given opportunity to represent against the findings recorded by the Joint Director.

2) Respondent No.3 has passed order under the dictates of the Commissioner of Fisheries and Regional Joint Director of Fisheries, Kurnool.

3) The impugned order is totally devoid of reasons and it does not reflect consideration of the reply submitted by the petitioner in response to the show cause notice. In other words, the impugned order does not satisfy the requirement of a 'speaking order', which has been highlighted by the Supreme Court in **Harinagar Sugar Mills v. Shyam Sundar**[1], **M.P.Industries Limited v. Union of India**[2], **Bhagat Raja v. Union of India**[3], **Mahavir Prasad Santoshkumar v. State of U.P.**[4], **Travancore Rayons v. UOI**[5], **Messrs Ajanta Industries v. Central Board of Direct Taxes, New Delhi**[6], **Messrs Siemens Engineering & Manufacturing Company v. Union of India**[7], **S.N. Mukherjee v. Union of India**[8], **Charan Singh v. Healing Touch Hospital**[9], **State of Punjab v. Bagh Singh**[10], **State of Orissa v. Dhaniram Luhar**[11], **State of Rajasthan v. Sohan Lal**[12], **Cyril Lasrado v. Juliana Maria**

Lasrado[13]**, Mangalore Ganesh Beedi Works v. CIT**[14] and **Manorama Sachan v. Lucknow Development Authority**[15].

In the result, the writ petition is allowed and order dated 27.2.2001 passed by respondent No.3 is quashed.

G.S.SINGHVI, CJ

25th July, 2007

svs

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[1] AIR 1961 SC 1669
[2] AIR 1966 SC 671
[3] AIR 1967 SC 1606
[4] AIR 1970 1302
[5] AIR 1971 SC 862
[6] AIR 1976 SC 437
[7] AIR 1976 SC 1785
[8] AIR 1990 SC 1984
[9] (2000) 7 SCC 668
[10] (2004) 1 SCC 547
[11] (2004) 5 SCC 568
[12] (2004) 5 SCC 573
[13] (2004) 7 SCC 431
[14] (2005) 5 SCC 75
[15] (2005) 9 SCC 425